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FM AMEMBASSY BANGKOK

TO RUEHC/SECSTATE WASHDC IMMEDIATE 7042
INFO RUCPDOC/DEPT OF COMMERCE WASHDC IMMEDIATE
RUEHRC/DEPT OF AGRICULTURE WASHINGTON DC IMMEDIATE
RUEATRS/DEPT OF TREASURY WASHINGTON DC IMMEDIATE
RUEAWJL/DEPT OF JUSTICE WASHINGTON DC IMMEDIATE
RUEAIIA/CIA WASHINGTON DC IMMEDIATE
RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS IMMEDIATE
RUEHCHI/AMCONSUL CHIANG MAI IMMEDIATE 6566

UNCLAS SECTION 01 OF 02 BANGKOK 001203

STATE FOR EAP/MLS, EEB/TPP/IPPE
STATE PASS TO USTR FOR WEISEL, BISBEE, AND BAE
COMMERCE FOR EAP/MAC/OKSA
COMMERCE PASS TO USPTO

SENSITIVE
SIPDIS

E.O. 12958:N/A

TAGS: ECON ETRD KIPR PINR PREL TH

SUBJECT: THAI GOVERNMENT (UNSUCCESSFULLY) RAIDS NOTORIOUS PIRATED
GOODS MARKET IN BANGKOK

REF: A. STATE 42645 (SPECIAL 301 DECISION)
1B. BANGKOK 661 (SPECIAL 301 RECOMMENDATION)
1C. BANGKOK 529 (SPECIAL 301 SUBMISSION)
1D. BANGKOK 379 (RIGHT MOVES ON IPR)

BANGKOK 00001203 001.2 OF 002

11. (SBU) SUMMARY: On May 6 a government-led enforcement team raided one of Thailand's most notorious markets for pirated and counterfeit goods, the Patpong night market in central Bangkok. A team of nearly 100 government officers, largely from the military's internal security units, rather than the police, descended onto the night market from all directions, only to be met by angry vendors with sticks, stones, and even guns. A large-scale brawl broke out, leaving more than ten people injured. The episode has since dominated local press headlines and editorials, sparking a debate over the enforcement of intellectual property rights. Although a botched affair, the raid indicates the Thai government is turning pledges of enforcement into action. END SUMMARY.

12. (SBU) COMMENT: The May 6 raid on the notorious Patpong market in central Bangkok was a debacle; the raid was poorly planned, poorly coordinated, and poorly executed. Since no arrests were made and evidence collected was not tied to a particular vendor, an eventual prosecution is doubtful. However, despite the botched effort, the raid demonstrated that Deputy Commerce Minister Alongkorn Ponlaboot and his team are turning the government's pledges to combat piracy into real actions. The government has pledged to increase the frequency of large-scale raids like the one in Patpong -- hopefully coordination and execution will improve so as not to damage the overall effort. END COMMENT.

A Good Effort... Gone Bad

13. (SBU) At 9:00 p.m. local time on May 6, the Ministry of Commerce sent a team of nearly 100 government officials from an anti-piracy task force to raid the notorious Patpong night market, a well-established pirated goods market selling everything from counterfeit watches and purses to pirated DVDs and counterfeit pharmaceuticals. The Ministry of Commerce had declared it would crackdown on IPR violators in Patpong and four other areas in Bangkok, after the U.S. Trade Representative identified these areas as "notorious markets" in its 2009 Special 301 Report (ref A). The Patpong market has endured the government's and rights holders' scrutiny for many years, largely because local police officers in

the precinct reportedly receive hefty bribes and protection money from the criminal elements that run the popular outdoor market.

¶14. (SBU) When the enforcement team arrived in Patpong and began the raid on the market stalls, the vendors rallied and attacked the raid team with wooden sticks, glass bottles, and stones. Gunshots were reportedly also fired, but neither the vendors nor the raid team claimed responsibility. Allegedly more than 10 members of the raid team, as well as numerous vendors, were injured in the skirmishes. The enforcement team seized thousands of pirated items; however, before the government's team was able to depart the scene, the angry vendors stormed the government's vehicles, taking back a significant portion of the seized products. Live news coverage of the raid's aftermath showed a very confusing, chaotic situation.

¶15. (SBU) Colonel Narin Pannarai, a deputy chairman of the government's new IPR enforcement task force who led the raid team, had hired a large number of Thai military reservists to augment his raid team. Commerce Ministry IPR officers reportedly refused to participate due to fears of violence. The enforcement task force that carried out the Patpong raid reportedly had conducted several successful actions over the last few months, including a major raid at Sua Pa Road in the Klong Tom area of Bangkok. (Note: The national IPR enforcement task force is divided into five regional teams, with representatives from the Thai military's Internal Security Operations Command (ISOC) and the Royal Thai Police. The enforcement task force is part of the larger IPR committee chaired by Prime Minister Abhisit and Deputy Commerce Minister Alongkorn Polaboot (ref D). End Note.)

Debates on Legal Authority of Raid

BANGKOK 00001203 002.2 OF 002

¶16. (SBU) Thai law enforcement authorities typically will not conduct a raid without a formal complaint from rights holders. Under Thai law, copyright infringement is a compoundable offense, meaning that government action cannot be taken without the right holder's official complaint. The May 6 Patpong raid, however, was not coordinated with rights holders, because under the Thai trademark laws, trademark offenses (as opposed to copyright offenses) are considered crimes against the public on which the government can act without a right holder's complaint. Warrants are usually required for raids, except when infringing products are in plain sight in a public area.

¶17. (SBU) Even though the government's task force had the legal authority under the trademark law to raid the market, the team apparently failed to follow standard procedures. The raid team reportedly did not coordinate with (or even contact) the police, either the local unit in Patpong or the specialized national IPR teams, in advance of the raid. The justification for the lack of communication was the need to protect against any leaks of the planned operation (a common problem with IPR raids in Thailand). As a result of the botched raid, the Inspector General at the Ministry of Commerce launched a fact-finding investigation, and the Royal Thai Police initiated a separate internal investigation into the alleged corruption of the local police branch at the Patpong market.

¶18. (SBU) On May 11, more than 100 vendors from the Patpong market sought legal assistance from the Law Society of Thailand to file criminal and civil law suits against the government officials for alleged abuse during the raid. The vendors are also seeking compensation for their losses, arguing that the raid team indiscriminately seized both pirated and non-pirated goods.

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